

House Bill 1076

By: Representative O'Neal of the 146th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 11 of Title 48 of the Official Code of Georgia Annotated, relating to cigar
2 and cigarette taxes, so as to change certain definitions regarding such taxes; to provide an
3 effective date; to repeal conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 **SECTION 1.**

6 Chapter 11 of Title 48 of the Official Code of Georgia Annotated, relating to cigar and
7 cigarette taxes, is amended by revising Code Section 48-11-1, relating to definitions
8 regarding such taxes, as follows:

9 "48-11-1.

10 As used in this chapter, the term:

11 (1) 'Cigar' means any roll for smoking made wholly or in part of tobacco when the cover
12 of the roll is also tobacco.

13 (2) 'Cigar dealer' means any person located within the borders of this state who sells or
14 distributes cigars to a consumer in this state.

15 (3) 'Cigar distributor' means any person, whether located within or outside the borders
16 of this state, other than a cigar dealer, who sells or distributes cigars within or into the
17 boundaries of this state and who:

18 (A) Maintains a warehouse, warehouse personnel, and salespersons who regularly
19 contact and call on cigar dealers; and

20 (B) Is engaged in the business of:

21 (i) Importing cigars into this state or purchasing cigars from other cigar
22 manufacturers or cigar distributors; and

23 (ii) Selling the cigars to cigar dealers in this state for resale but is not in the business
24 of selling the cigars directly to the ultimate consumer of the cigars.

25 (4) 'Cigar importer' means any person who imports into or who brokers within the United
26 States, either directly or indirectly, a finished cigar for sale or distribution.

(5) 'Cigar manufacturer' means any person who manufactures, fabricates, assembles, processes, or labels a finished cigar.

(6) 'Cigarette' means any roll for smoking made wholly or in part of tobacco when the cover of the roll is paper or any substance other than tobacco.

(7) 'Cigarette dealer' means any person located within the borders of this state who sells or distributes cigarettes to a consumer in this state.

(8) 'Cigarette distributor' means any person, whether located within or outside the borders of this state, other than a cigarette dealer, who sells or distributes cigarettes within or into the boundaries of this state and who:

(A) Maintains a warehouse, warehouse personnel, and salespersons who regularly contact and call on cigarette dealers; and

(B) Is engaged in the business of:

(i) Importing cigarettes into this state or purchasing cigarettes from other cigarette manufacturers or cigarette distributors; and

(ii) Selling the cigarettes to cigarette dealers in this state for resale but is not in the business of selling the cigarettes directly to the ultimate consumer of the cigarettes.

Such term shall not include any cigarette manufacturer, export warehouse proprietor, or cigarette importer with a valid permit under 26 U.S.C. Section 5712, if such person sells or distributes cigarettes in this state only to cigarette distributors who hold valid and current licenses under Code Section 48-11-4 or to an export warehouse proprietor or another cigarette manufacturer with a valid permit under 26 U.S.C. Section 5712.

(9) 'Cigarette importer' means any person who imports into or who brokers within the United States, either directly or indirectly, a finished cigarette for sale or distribution.

(10) 'Cigarette manufacturer' means any person who manufactures, fabricates, assembles, processes, or labels a finished cigarette.

(11) 'Counterfeit cigarette' means cigarettes that are manufactured, fabricated, assembled, processed, packaged, or labeled by any person other than the trademark owner of a cigarette brand or the owner's designated agent.

(12) 'Dealer' means any person who is a cigar dealer, a cigarette dealer, or a loose or smokeless tobacco dealer.

(13) 'Distributor' means any person who is a cigar distributor, a cigarette distributor, or a loose or smokeless tobacco distributor.

(14) 'First taxable transaction' means the first sale, receipt, purchase, possession, consumption, handling, distribution, or use of cigars, cigarettes, or loose or smokeless tobacco within this state.

(15) 'Loose or smokeless tobacco' means granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff or snuff flour; cavendish; plug and twist tobacco;

1 fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and
2 sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as
3 to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and
4 smoking but does not include cigarettes or cigars or tobacco purchased for the
5 manufacture of cigarettes or cigars by cigarette manufacturers or cigar manufacturers.

6 (16) 'Loose or smokeless tobacco dealer' means any person located within the borders
7 of this state who sells or distributes loose or smokeless tobacco to a consumer in this
8 state.

9 (17) 'Loose or smokeless tobacco distributor' means any person who:

10 (A) Maintains a warehouse, warehouse personnel, and salespersons who regularly
11 contact and call on loose or smokeless tobacco dealers; and

12 (B) Is engaged in the business of:

13 (i) Importing loose or smokeless tobacco into this state or purchasing loose or
14 smokeless tobacco from other loose or smokeless tobacco manufacturers or loose or
15 smokeless tobacco distributors; and

16 (ii) Selling the loose or smokeless tobacco to loose or smokeless tobacco dealers in
17 this state for resale but is not in the business of selling the loose or smokeless tobacco
18 directly to the ultimate consumer of the loose or smokeless tobacco.

19 (18) 'Loose or smokeless tobacco importer' means any person who imports into or who
20 brokers within the United States, either directly or indirectly, finished loose or smokeless
21 tobacco for sale or distribution.

22 (19) 'Loose or smokeless tobacco manufacturer' means any person who manufactures,
23 fabricates, assembles, processes, or labels finished loose or smokeless tobacco.

24 (20) 'Related machinery' means any item, device, conveyance, or vessel of any kind or
25 character used in manufacturing, packaging, labeling, stamping, transporting, distributing,
26 selling, or possessing counterfeit cigarettes.

27 (21) 'Sale' means any sale, transfer, exchange, theft, barter, gift, or offer for sale and
28 distribution in any manner or by any means whatever.

29 (22) 'Stamp' means any impression, device, stamp, label, or print manufactured, printed,
30 made, or affixed as prescribed by the commissioner.

31 (23) 'Vending machine' means any coin-in-the-slot device used for the automatic
32 merchandising of cigars, cigarettes, or loose or smokeless tobacco."

SECTION 2.

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2 This Act shall become effective upon its approval by the Governor or upon its becoming law
3 without such approval.

SECTION 3.

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5 All laws and parts of laws in conflict with this Act are repealed.